

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-015099

04/20/2015

JUDGE PRO TEM COLLEEN L. FRENCH

CLERK OF THE COURT

S. Ortega

Deputy

KATHLEEN MALONE

DOROTHY B BARAN

v.

LINDA JOY ROSE, et al.

LINDA JOY ROSE
3837 NORTHDAL BLVD
SUITE 145
TAMPA FL 33624

JEFFREY FRANCIS HORNE
3837 NORTHDAL BLVD
SUITE 145
TAMPA FL 33624
RAW FUSION LIVING L L C
C/O LINDA JOY ROSE
3853 NORTHDAL BLVD, SUITE 145
TAMPA FL 33624

**THIS IS A TRIAL SETTING ORDER
PLEASE READ CAREFULLY FOR COMPLIANCE**

East Court Building - Courtroom 712

8:46 a.m. This is the time set for Telephonic Pretrial Status/Scheduling Conference for the purpose of setting a trial date. Plaintiff is represented by counsel, Dorothy B. Baran. Defendants, Jeffrey Francis Horne and Linda Joy Rose, appear on their own behalf. All parties appear telephonically.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

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Discussion is held.

IT IS ORDERED setting Trial to a Jury on **August 31, September 1 and 2, 2015.**

JUDGE PRO TEM COLLEEN L. FRENCH
Maricopa County Superior Court
East Court Building
101 W. Jefferson, Courtroom 712
Phoenix, AZ 85003
Telephone number: 602-506-1462

THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE TRIAL BASED ON LACK OF PREPARATION WILL ORDINARILY NOT BE GRANTED.

Length of trial: **3 days.**

Trial is held from 9:30 a.m. to 12:00 p.m. and from 1:30 p.m. to 4:30 p.m. There will be an afternoon recess of 15 minutes.

IT IS FURTHER ORDERED setting a Trial Management Conference on **August 14, 2015 at 9:00 a.m.** in this division. Time allotted: one hour. **Counsel who are the trial lawyers on the case and all principals are required to attend the Trial Management Conference in-person.** Failure to attend the Trial Management Conference in-person may result in personal sanctions.

Discussion was held and no objection was made to Defendants appearing at the Trial Management Conference via telephone.

Exhibits are due to the clerk at the Trial Management Conference.

IT IS FURTHER ORDERED that counsel may call the clerk, Sherri Ortega, at telephone **(602) 506-1471** with questions regarding exhibits. Counsel is required to email the Clerk a copy of the **Trial Exhibit List and Stipulation of Exhibits** in Microsoft Word Format. Email to the clerk should be sent to ortegas001@cosc.maricopa.gov and opposing counsel and or/party shall be copied on any email.

The Court will rule on any objections to exhibits at the Trial Management Conference. Objections must be made before or during the Trial Management Conference or will be deemed to have been waived. The Court encourages the use of juror notebooks, but stipulation of exhibits is required.

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IT IS FURTHER ORDERED:

1. Exhibits should be separated by a colored sheet of paper with the exhibit number written on front. Each exhibit shall be clipped or bound if too large to be stapled. Exhibits may also be provided in a three-ring binder, each separated by a tabbed numbered divider.
2. Please also provide a separate copy of exhibits to be referenced by the Judge during the trial. If counsel intends to submit more than 50 exhibits, please provide a courtesy copy of the exhibits in a **thumb drive (flash drive)** for the Judge to access on her laptop computer. If any exhibits are spread sheets, please provide an additional hard copy.
3. Keep the descriptions of the exhibits simple. Do not use a description that cannot be verified by looking at the document or item. **Do not include Bates numbers** in your description of the exhibits.
4. Exhibits shall be marked numerically and consecutively -- 1, 2, 3 etc. **Do not skip numbers**. Numbers will not be skipped or saved in anticipation of additional exhibits to be submitted. Any missing or skipped exhibits shall be designated as "**Unused.**" Additional exhibits, if necessary, may be marked during the course of trial.
5. Counsel shall eliminate duplication of exhibits as duplicate **exhibits will not** be marked. Counsel shall, therefore, confer regarding exhibits to insure that there are no duplicates.
6. **Do not list depositions** on the exhibit description list as depositions will not be marked as exhibits. Original depositions shall be provided to the clerk at the time of trial for filing into the court record. Counsel shall retain a copy of the depositions for their use during the trial as the original depositions remain with the clerk to be used as reference by the trial judge during testimony.
7. Blow-up charts and large items may only be used for demonstrative purposes. Counsel may bring blow-up charts and large items for use during trial; however, if counsel would like any blow-up charts or large items marked as an exhibit, they must provide the clerk with an 8-1/2 x 11 photograph of the item.

The Trial Management Conference shall be governed by the guidelines set forth below:

IT IS FURTHER ORDERED all Motions in Limine shall be filed forty (40) days before trial and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 499 P.2d 152 (1972): "The primary purpose of a Motion in Limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." A written response to a Motion in Limine

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may be filed no later than ten (10) day thereafter. No replies shall be filed. The Court will decide Motions in Limine at the Trial Management Conference. If oral argument is requested, oral argument will be held at the Trial Management Conference.

Notice Regarding Substantive Motions: The Court will not accept omnibus motions, responses and replies. All motions, responses and replies shall be filed on individual claims and counts separately. Counsel shall not combine any motion with a responsive pleading. If omnibus motions are filed, the Court reserves the right to reject the motions. No motion shall exceed the page limitation without prior Court approval.

IT IS FURTHER ORDERED the Joint Pretrial Statement in accordance with Rule 16(g), Ariz. R. Civ. P. signed by all counsel, Jury Instructions, Proposed Voir Dire Questions and Proposed Verdict Forms shall be filed **two weeks prior** to the Trial Management Conference. Counsel is required also to email a copy to this division in Microsoft Word Format. Email to this division should be sent to malachim@superiorcourt.maricopa.gov. Opposing counsel and or/ party shall be copied on all email sent to this division. All email and attachments sent to this division must also be filed. Email sent to this division is a courtesy to the Court and is not a substitute for electronic filing.

NOTE: The courtesy copies of pleadings emailed to the Court SHALL NOT BE ON NUMBERED PLEADING PAPER AND SHALL ONLY BE IN MICROSOFT WORD FORMAT.

IT IS FURTHER ORDERED the following documents shall be filed and emailed to the Court **two weeks prior** to the Trial Management Conference:

A. Final Trial Witness List: (A sample form is incorporated in this order). This list shall contain the name of each witness a party actually intends to call at trial, the day on which they intend to call each witness and the estimated time needed for direct, cross and re-direct examination. The Court will use the list to predict the length of the trial for the jurors and to direct counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause.

B. A joint set of agreed-upon Preliminary and Final Jury Instructions and Proposed Forms of Verdict. All RAJI and Non-RAJI instructions shall be provided to the Court fully typed in Microsoft Word Format with cites to the RAJI and/or other appropriate legal authority. Each instruction shall cover only one subject. The parties shall also provide Proposed Forms of Verdict.

C. Proposed voir dire questions and a brief summary of the case which the Court will read to the jury at the commencement of voir dire.

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D. With respect to deposition testimony: In addition to the information required by Rule 16(g), counsel shall provide to the Court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the Court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.

IT IS FURTHER ORDERED that no documents submitted to the Court after the deadline shall be considered.

IT IS FURTHER ORDERED at the Trial Management Conference, counsel shall be prepared to discuss:

1. Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
2. Stipulations for the foundation and authenticity of exhibits.
3. Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
4. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of videotaped depositions.
5. Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading in of pages of testimony.
6. The allocation for the payment of jury fees.
7. Use of short trial or summary jury trial.
8. Any special scheduling or equipment issues.
9. The status of settlement of the case.

The parties are reminded to promptly notify the court of any settlement pursuant to Ariz. R. Civ. P. 5.1(d). IF THE CASE IS SET FOR A JURY TRIAL, ONE DAY'S JURY FEES

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WILL BE ASSESSED UNLESS THE COURT IS NOTIFIED OF SETTLEMENT BEFORE 2:00 P.M. ON THE JUDICIAL DAY BEFORE TRIAL.

8:56 a.m. Matter concludes.

NOTE: This Court utilizes FTR for an electronic record of the proceedings. With this new technology, a court reporter is not required and the parties are encouraged to experience the court's audio/videotape recording system before requesting a court reporter. A fee of \$20.00 will be charged for each copy of courtroom proceedings digitally recorded and provided on compact Disc (CD). The fee is due when the CD is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable to: Clerk of the Superior Court. Blank or unused CDs will not be accepted in lieu of payment. Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, at kcrensa@superiorcourt.maricopa.gov. For copies of trial proceedings recorded previously, please call Electronic Records Services at (602) 506-7100. **If a court reporter is required, a written request must be received by the court at least three (3) court business days before trial.**

Please note that it is not the responsibility of court staff to operate the electronic equipment during trial. Counsel/parties are encouraged to contact court staff at least two weeks prior to trial in order to make arrangements to learn how to operate the electronic equipment. The electronic equipment includes:

1. Counsel desks: microphones with mute buttons (microphones are very sensitive); touch screen monitors; computer hookups for power, cables for laptop to connect to courtroom electronics;
2. Jury box: 8 monitors; microphones;
3. Witness box: touch screen monitor; microphones;
4. Bench: speaker telephone; monitor; control panel; light switches/dimmers; microphones;
5. Clerk's desk: none; large table to place exhibits in front of desk;
6. Bailiff's desk: telephone; control panel;
7. Podium: ELMO; VCR/DVD; computer hookups;
8. Miscellaneous: Gallery monitors; infrared broadcaster and earphones.

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Please note: The Court reserves the right to vacate and reset, at its own discretion, any hearing for which the parties submit pleadings within 48 hours prior to the commencement of the hearing, without prior approval from the Court.

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FINAL TRIAL WITNESS LIST

CAUSE NUMBER _____

CASE CAPTION _____

PLAINTIFF(S) COUNSEL _____

DEFENDANT(S) COUNSEL _____

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

Opening Statements and Closing Arguments

PLAINTIFF(S) OPENING STATEMENT	
DEFENDANT(S) OPENING STATEMENT	
PLAINTIFF(S) CLOSING ARGUMENTS	
DEFENDANT(S) CLOSING ARGUMENTS	
PLAINTIFF(S) REBUTTAL	

Estimate of Time for Witness Examination

PLAINTIFF(S) WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

DEFENDANT(S) WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

The foregoing is based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed above.

Counsel for Plaintiff(s)

Counsel for Defendant(s)